WP 1002/05 (3)

WP 9167/03
OA 3037/94(T)

BEFORE THE MADHYA PRADESH STATE ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH AT JABALPUR (MP)

OA No 3037/1994

APPLICANT:.....Deo Kumar Choubey
S/o Ram Dhari Choubey
Aged about 37 years
Daily Wage Worker
Range Office Jagdalpur
Central Bastar Territorial Division
Jagdalpur
HQ Jagdalpur (Distt Bastar) MP

R/o Amaguda
Near Govt Water Pump
Lal Bagh
JAGDALPUR (MP) 494 001

Versus

RESPONDENTS:.1 State of Madhya Pradesh
Through Secretary
Forest Department
Vallabh Bhawan
Bhopal (MP)

2 Conservator of Forests
Jagdalpur Circle
Jagdalpur (MP)
(Distt Bastar) MP

3 Divisional Forest Officer
Central Bastar (Territorial) Division
Jagdalpur (Distt Bastar) MP

DETAILS OF THE APPLICATION.

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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P.S. No. 1002 of 2005

Petitioner : Deo Kumar Choubey

Versus

Respondents : State of Madhya Pradesh & Others

Shri Abhay Tiwari, counsel for the petitioner.

Shri Ajay Dwivedi, Panel Lawyer for the State.

ORAL ORDER

(10th July, 2006)

1. The present petition filed by the petitioner, who was appointed as Daily Wages Worker on the post of Godown Keeper in Kondagoan Plantation Division, Central Bastar Division, on 26.8.1980.

2. Learned counsel for the petitioner submits that the petitioner is still working as Daily Wages Worker and there is vacancy available for regularization. In view of the latest dictum laid down by the Supreme Court in the case of **Secretary, State of Karnataka and Others Vs. Umadevi (3) and Others,** this Court cannot direct regularization of the petitioner on any ground even on the ground that the petitioner has been working for more than last 26 years.

3. In the light of para 53 in case of **Secretary, State of Karnataka and Others Vs. Umadevi (3) and Others,** the

State Government is directed to take steps for regularization as a one-time measure. The Supreme Court in para 53 of the Judgement in the case of **Secretary, State of Karnataka and Others Vs. Umadevi (3) and Others,** observed thus:

> "53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa[11], R.N. Nanjundappa[12] and B.N. Nagarajan[8] and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases abovereferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional

requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme."

4. In view of the afore-mentioned reasons, the petition stands disposed of. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge